

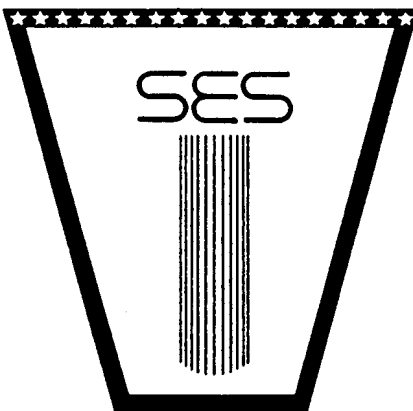


OFFICE OF THE  
SECRETARY OF DEFENSE

---

# SENIOR EXECUTIVE SERVICE PROBATIONARY PERIOD

---



Office of the Secretary of Defense, OSD Field Activities,  
Organization of the Joint Chiefs of Staff, the U.S. Court of  
Military Appeals, the U.S. Mission to NATO, and the Defense Agencies

SEPTEMBER 1982

SENIOR EXECUTIVE SERVICE  
PROBATIONARY PERIOD

Senior Executive Service Handbook

Chapter 8



COMPTROLLER  
(Administration)

OFFICE OF THE ASSISTANT SECRETARY OF DEFENSE

WASHINGTON, D.C. 20301

DoD 1402.3-H  
Chapter 8

September 10, 1982

FOREWORD

The Senior Executive Service Handbook is issued under the authority of DoD Directive 1402.3, "Executive Resources Boards," July 31, 1979, and DoD Directive 1434.2, "Senior Executive Service Performance Appraisal," August 29, 1980. These Directives will be revised and incorporated into a single issuance to reflect changes in the administration of the Senior Executive Service (SES) program. Until the issuance of the new document, the provisions of this handbook shall supersede those of the Directives.

The purpose of this handbook is to provide information to SES members and to their supervisors on the SES probationary period.

This handbook applies to the Office of the Secretary of Defense (OSD), OSD field activities, the Organization of the Joint Chiefs of Staff (OJCS), the Defense Agencies (except the National Security Agency/Central Security Service and the Defense Intelligence Agency), the U.S. Court of Military Appeals, and the U.S. Mission to the North Atlantic Treaty Organization (NATO). In this handbook, the Defense Advanced Research Projects Agency (DARPA) and the Defense Security Assistance Agency (DSAA) shall be considered OSD Components rather than Defense Agencies. The provisions of this handbook cover all persons entering the SES under career appointments, unless the probationary period was waived or previously completed.

This handbook is effective immediately, and its use is mandatory.

Send recommended changes to this handbook through channels to the following:

Senior Executive Service Division  
Directorate for Personnel and Security  
Washington Headquarters Services  
Room 3B347, The Pentagon  
Washington, D.C. 20301

Copies may be obtained from the OSD Publications Counter Service, Room 3B960, The Pentagon.

A handwritten signature in cursive script, reading "D. O. Cooke".

D. O. Cooke  
Deputy Assistant Secretary of Defense

## REFERENCES

- References: (a) Public Law 95-454, "Civil Service Reform Act of 1978," October 13, 1978
- (b) Section 7511 of title 5, United States Code
  - (c) Section 7543 of title 5, United States Code (5 CFR 752, Subpart F)
  - (d) Sections 3591-3595 of title 5, United States Code (5 CFR 359)
  - (e) Section 7701 of title 5, United States Code
  - (f) Section 3393 of title 5, United States Code
  - (g) Chapter 43 (Subchapter II) of title 5, United States Code

## C8. CHAPTER 8

### PROBATIONARY PERIOD

#### C8.1. INTRODUCTION

C8.1.1. The 1-year probationary period, required under P.L. 95-454 (reference (a)), is the final step in the SES selection process. During this time, the appointee's job performance and conduct are evaluated. A copy of a document showing satisfactory completion of the period is kept in the employee's Official Personnel File.

C8.1.2. The probationary period is different from the official SES performance appraisal cycle. The probationary period begins when the career appointee enters a position and ends 12 months later, while the SES performance appraisal cycle extends from July 1 of each year until June 30 of the following year.

C8.1.3. As a matter of policy, time toward the 1-year period is cumulative. Therefore, SES service in different positions, under different supervisors, even elsewhere in the Federal system, during the 1st year will not affect starting and completion dates. However, references of all supervisors during the period should be solicited before any final certification is made.

C8.1.4. Since there is no entitlement to a full 12-month probationary period, action to remove the appointee may be taken anytime before the end of the period.

#### C8.2. DEFINITIONS

C8.2.1. Agency. Collectively, the OSD, OSD Field Activities, the OJCS, the U.S. Mission to NATO, the U.S. Court of Military Appeals, and the Defense Agencies.

C8.2.2. Agency Head. The Secretary of Defense.

C8.2.3. Employing Organization. The following are separate employing organizations:

C8.2.3.1. The OSD (for itself, OSD Field Activities, the OJCS, the U.S. Mission to NATO, the U.S. Court of Military Appeals, DARPA, and DSAA).

C8.2.3.2. Defense Audiovisual Agency.

C8.2.3.3. Defense Audit Service.

C8.2.3.4. Defense Communications Agency.

C8.2.3.5. Defense Contract Audit Agency.

C8.2.3.6. Defense Investigative Service.

C8.2.3.7. Defense Logistics Agency.

C8.2.3.8. Defense Mapping Agency.

C8.2.3.9. Defense Nuclear Agency.

C8.2.4. OSD Component Head. The Secretary of Defense; Chairman, JCS; Under Secretaries of Defense; Assistant Secretaries of Defense; DoD General Counsel/Director, Defense Legal Services Agency (DLSA); Directors of Program Analysis and Evaluation, Net Assessment, DSAA, and DARPA; Assistants to the Secretary of Defense; Chief Judge of the U.S. Court of Military Appeals; and Director, Washington Headquarters Services. The Defense Advisor, U.S. Mission to NATO, assumes this role for individuals assigned to the U.S. Mission. The international supervisors of SES members assigned to the NATO International Staff or to other NATO agencies assume this role for them.

### C8.3. PROCEDURES

The purpose of a 1-year probationary period is to allow supervisors time for assessment of the performance and conduct of new Federal SES appointees. Upon satisfactory completion of this period, appointees are awarded career status in the SES. Should the appointee's executive caliber and performance be considered deficient, the following information is applicable.

#### C8.3.1. Removal of a Career SES Appointee During Probation

C8.3.1.1. For unacceptable performance or conduct, the employing organization shall notify the career appointee in writing before the effective date of the action. The written notice shall state the following:

C8.3.1.1.1. The inadequacies of the appointee's performance or conduct.

C8.3.1.1.2. Whether the appointee has placement rights, and, if so, the position to which the appointee will be assigned.

C8.3.1.1.3. The effective date of the action.

C8.3.1.2. For conditions arising before appointment (for example, removal on the basis of information from a background investigation or because of intentional falsification of application forms or other pre-appointment documents), the employing organization shall give the career appointee an advance notice stating the specific reasons for the removal. The appointee shall be given a reasonable time to reply. The employing organization then shall give the appointee a written decision showing the reasons for the action and the effective date. When appropriate, the notice shall state the appointee's placement rights and identify the position to which the appointee will be assigned. The notice of the decision shall be given to the appointee at or before the time the action will be made effective.

#### C8.3.2. Guaranteed Placement

C8.3.2.1. An SES appointee who enters a position from other than a career-type appointment or from outside the Government, and who is removed from the SES during probation, does not have guaranteed placement rights.

C8.3.2.2. An SES appointee who is removed from the SES during probation for other than misconduct, or neglect of duty or malfeasance, and who, at the time of appointment to the SES, held a career or career-conditional appointment (or an appointment of equivalent tenure, as determined by the Office of Personnel Management (OPM)), is entitled to placement in a civil service position (other than an SES position). The position shall meet the following criteria:

C8.3.2.2.1. Be a continuing position at the GS-15 level or above, or equivalent.

C8.3.2.2.2. Be equivalent in tenure to that of the appointment held at the time of appointment to the SES.

C8.3.2.2.3. Be one for which the appointee meets the qualifications requirements.

C8.3.2.3. The employing organization taking the removal action shall place the appointee in an appropriate position within the employing organization, or shall arrange placement in an appropriate position in another organization. In the latter case, the

transfer must be mutually acceptable to the appointee and the gaining organization. The placement of the appointee under these provisions also must not cause the separation or reduction in grade of any other employee.

C8.3.2.4. Basic pay shall be the highest of the following:

C8.3.2.4.1. The rate of basic pay in effect for the position in which he or she is being placed;

C8.3.2.4.2. The rate of basic pay currently in effect for the position the appointee held in the civil service immediately before being appointed to the SES; or

C8.3.2.4.3. The rate of basic pay in effect for the appointee immediately before his or her removal from the SES.

### C8.3.3. Restriction on Removal of Career SES Appointees

C8.3.3.1. A removal may not be made effective within 120 days after the following:

C8.3.3.1.1. The appointment of a new Agency Head; or

C8.3.3.1.2. The appointment in the Agency of the career appointee's most immediate supervisor who is a noncareer appointee <sup>1</sup> and has the authority to remove the appointee.

C8.3.3.2. This restriction does not apply to a disciplinary action initiated before the appointment of a new Agency Head or the appointment of the career appointee's most immediate noncareer supervisor.

C8.3.3.3. SES appointees who are being removed for conduct or performance reasons and who meet the definition of "employee" in 5 U.S.C. 7511 (reference (b)) shall be entitled to adverse action procedures under 5 CFR 752, Subpart F (reference (c)). SES appointees who are being removed for conduct or performance and who do not meet the definition of "employee" under reference (b) shall be removed in accordance with 5 CFR 359.401 (reference (d)).

---

<sup>1</sup> The term "noncareer appointee" does not include military officers.



#### C8.3.4. Appeals

C8.3.4.1. Removal during the probationary period for unacceptable performance or conduct, or for conditions arising before appointment, is not appealable to the Merit Systems Protection Board under 5 U.S.C. 7701 (reference (e)) unless adverse action procedures were appropriate. In that case, the appointee against whom the action was taken may appeal to the Merit Systems Protection Board under reference (e).

C8.3.4.2. Allegations of prohibited personnel practices shall be submitted by the appointee to the Special Counsel of the Merit Systems Protection Board.

C8.3.4.3. The following matters are excluded from coverage under Agency grievance procedures by the OPM:

C8.3.4.3.1. A return of an appointee from the SES to the General Schedule or another pay system during the 1-year probationary period.

C8.3.4.3.2. The termination, under 5 U.S.C. 3393 (reference (f)), of a probationer for unsatisfactory performance.

C8.3.4.3.3. A performance evaluation under 5 U.S.C. Chapter 43, Subchapter II (reference (g)).

C8.3.4.3.4. A decision that is appealable to the Merit Systems Protection Board or that is subject to final administrative review by the OPM or the Equal Employment Opportunity Commission under regulations thereof.

#### C8.4. RESPONSIBILITIES

C8.4.1. The Office of the Secretary of Defense, the OSD Field Activities, the Organization of the Joint Chiefs of Staff, the Defense Advanced Research Projects Agency, the Defense Security Assistance Agency, the U.S. Mission, and the U.S. Court of Military Appeals

C8.4.1.1. The Immediate-Supervisor shall do the following:

C8.4.1.1.1. Outline expectations with the new appointee.

C8.4.1.1.2. Supervise the new appointee.

C8.4.1.1.3. Evaluate the appointee's performance before the end of the probationary period, and advise the appointee.

C8.4.1.1.4. Notify the OSD Component Head of the appointee's adequacy of performance and caliber at the end of the probationary period.

C8.4.1.2. The OSD Component Head shall decide whether probationary periods are satisfactorily completed, shall certify same, and shall authorize the appropriate personnel action to be taken.

C8.4.1.3. The SES Division shall provide personnel service to the OSD, OSD Field Activities, the OJCS, DARPA and DSAA, the U.S. Mission to NATO, and the U.S. Court of Military Appeals, which includes:

C8.4.1.3.1. Determination of whether probationary periods are appropriate, whether placement rights are guaranteed, and the starting dates of probationary periods.

C8.4.1.3.2. Informing supervisors of appointees in the SES at the start of probationary periods, as needed.

C8.4.1.3.3. Advising supervisors of their responsibilities during their subordinates' probationary periods.

C8.4.1.3.4. Informing supervisors of the approaching endings of probationary periods, and maintaining records of OSD Component Head certifications.

C8.4.1.3.5. Advising supervisors of actions necessary to release appointees from the SES. If appropriate, the SES Division generates personnel actions to indicate the completion of SES probationary periods. If a period is not satisfactorily completed, the SES Division advises the supervisor and appointee of placement procedures (if any), appointee rights, and the process of removal from the SES.

#### C8.4.2. Defense Agencies

C8.4.2.1. Defense Agency Directors shall decide whether career SES appointees have satisfactorily completed their probationary periods and shall take appropriate action.

C8.4.2.2. Each Defense Agency personnel office, or personnel office providing service under an inter-Service support agreement, shall provide technical support and guidance in the area of SES probationary periods.

C8.4.2.3. Defense Agencies may issue internal procedures regarding probationary periods as long as such procedures are consistent with OPM and OSD guidance, provide for an adequate flow of information between personnel staff and supervisors and probationers, provide for permanent documentation of the completion of the probationary period, and are submitted to the OSD for approval.

C8.4.2.4. Civilian Defense Agency Directors, Deputy Directors, and General Counsels (or equivalent) must have OSD Component Head certification of satisfactory completion of the SES probationary period. Except for the OSD-level certification (which, for the Deputy Directors and General Counsels, is done in consultation with the appropriate Defense Agency Director), administrative processing for these appointees is the same as that for other Defense Agency personnel. The Defense Agency is the employing organization and holds all employing organization responsibilities.